

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

DONALD W. TOENNIGES, :
: :
Plaintiff, :
: :
VS. : : **1:09-CV-165 (WLS)**
: :
WARDEN AMMONS, et al., :
: :
Defendants. :

RECOMMENDATION

Plaintiff, who is proceeding *pro se*, brought the above-styled action pursuant to 42 U.S.C. § 1983 on November 4, 2009 (Doc. 1). On May 26, 2010, the district court adopted a Report and Recommendation resulting in the dismissal of Defendants Georgia Department of Corrections, Nelson, Saud, Thompson, Morales, Scarborough, and Ayers (Doc. 34). Then on March 14, 2011, the district court adopted a Report and Recommendation from the undersigned which dismissed Defendants Ammons, Allen, Jones, Johnson, Tatum, Edwards, Tarver, and Smith (Doc. 96). Defendant Brown is the only remaining Defendant, and as of the date of this Recommendation, has not been served.

Presently pending in this action is Plaintiff's Motion to Withdraw (Doc. 93). Plaintiff requests that the Court dismiss his claim against Defendant Brown without prejudice. Plaintiff voluntarily moved for dismissal of the claims against Defendant Brown, and as such, it is the recommendation of the undersigned that Defendant Brown be **DISMISSED** without prejudice. Fed. R. Civ. P. 41(a)(2).

Pursuant to 28 U.S.C. § 636(b)(1), the parties may file written objections to the recommendations contained herein with the Honorable W. Louis Sands, United States District

Judge, WITHIN FOURTEEN (14) DAYS after being served with a copy of this Recommendation.

SO RECOMMENDED, this 20th day of April, 2011.

s/ *THOMAS Q. LANGSTAFF*

UNITED STATES MAGISTRATE JUDGE

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